

REMARKS

In response to the Restriction Requirement in the November 12, 2003 Office Action, Applicant hereby affirms the election, without traverse, of claims 1-7, 10-12, and 18-21 (Group I) to prosecute in the above-identified patent application.

Claims 8-9 and 13-17 have been cancelled. Claims 1, 5-7, 10, and 18-21 have been amended to clarify the subject matter regarded as the invention. Claims 1-7, 10-12, and 18-21 remain pending.

The Examiner has rejected claims 1, 3, 6, 10-12, and 18-21 under 35 U.S.C. §102. The Examiner also rejected claims 2, 4-5, and 7 under 35 U.S.C. §103.

The rejection is respectfully traversed. As amended claim 1 recites "...determining a primary client using performance information and a network location of the client, the network location relating to a data topology...." Mohseni (U.S. Patent No. 5,910,179) is silent as to determining a primary client and does not teach or suggest the claimed invention. Banavar et al. (U.S. Patent No. 6,336,119) does not disclose the use of a network location as in the claimed invention. Banavar et al. is silent as to the use of performance information and discloses the use of *geographic* location and not a network location relating to a data topology as in the claimed invention. (See col. 5, lines 17-28; col. 5 line 61 to col. 6, line 3). Finally, Calvert et al. ("Core Selection Methods for Multicast Routing) teaches away from the claimed invention and does not disclose or suggest using performance information *and* a network location relating to a data topology, as recited in claim 1. (See pages 640-641, section 3.4). Calvert et al. also discloses group and not network-based selection techniques, gain teaching away from the claimed invention (See page 641, section 3.4). Thus, Applicant submits that claim 1 is allowable.

Claims 2-4 depend from claim 1 and are believed to be allowable for the same reasons stated above. Further, as claims 5-7, 10, and 18-21 were amended similarly to claim 1, Applicant also submits these claims are also allowable for the same reasons. Finally, as claims 11-12 depend from claim 10, Applicants submit these claims are allowable for the same reasons as claim 1.

Reconsideration of the application and allowance of all claims are respectfully requested based on the preceding remarks. If at any time the Examiner believes that an interview would be helpful, please contact the undersigned.

Respectfully submitted,



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